

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**MELODY M. LARROCCA,**

**X**

**Plaintiff,**

**Civil Action  
No. 08 CIV 6274**

**-against-**

**NOTICE OF MOTION**

**Hon. Stephen J. Robinson**

**COLLEN IP, INTELLECTUAL PROPERTY  
LAW, P.C., and DONALD J. RANFT, as Aider  
And Abettor,**

**Oral Argument Requested**

**Defendants.**

**X**

**PLEASE TAKE NOTICE** that upon this notice of motion, the Declaration of Lawrence A. Garvey dated August 21, 2008, with exhibits, and the accompanying supporting memorandum of law, defendants Collen IP, Intellectual Property Law, P.C. (hereinafter referred to as “Defendant Collen IP”), and Donald J. Ranft, as Aider and Abettor (hereinafter referred to as “Ranft”), by their undersigned counsel, move this Court, in accordance with Local Civil Rule 6.1 of the Southern District and section II of the Individual Rules of Practice of the Honorable Stephen J. Robinson, United States District Judge, at the United States District Courthouse, 300 Quattropas Street, Room 633, White Plains, New York 10601-4150, for an order dismissing plaintiff’s third cause of action entitled infliction of emotional distress for failure to state a claim upon which relief can be granted pursuant to FED. R. CIV. P. 12(b)(6), and for such other and further relief as the Court deems just and proper.

**Electronically Filed**

Dated: Tarrytown, New York  
August 29, 2008

Respectfully submitted,

LAW OFFICES OF CUSHNER & GARVEY, LLP

By:           S/            
Lawrence A. Garvey (LG9113)  
*Attorneys for Defendants Collen IP,  
Intellectual Property Law, P.C., and  
Donald J. Ranft, as Aider and Abettor  
155 White Plains Road, Suite 207  
Tarrytown, New York 10591  
Tele (914) 524-9400 / Fax (914) 524-0422*

TO:

Mr. Kyle McGovern (KM3373)  
Lyons McGovern LLP  
*Attorneys for Plaintiff Melody M. LaRocca*  
16 New Broadway  
Sleepy Hollow, New York 10591  
(914) 631-1336

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MELODY M. LARROCCA,

X

Plaintiff,

Civil Action  
No. 08 CIV 6274

-against-

DECLARATION OF  
LAWRENCE A. GARVEY

COLLEN IP, INTELLECTUAL PROPERTY  
LAW, P.C., and DONALD J. RANFT, as Aider  
and Abettor,

Hon. Stephen J. Robinson

Defendants.

X

Lawrence A. Garvey, declares, pursuant to the provisions of 28 U.S.C. § 1746:

1. I am a partner with the Law Offices of Cushner & Garvey, LLP, attorneys for Defendants Collen IP, Intellectual Property Law, P.C. (hereinafter referred to as "Defendant Collen IP") and Donald J. Ranft, as Aider and Abettor (hereinafter referred to as "Defendant Ranft") (collectively referred to as "Defendants"). I am fully familiar with the facts and circumstances set forth herein.

2. This declaration is submitted together with the exhibits annexed hereto and the Memorandum of Law in support of Defendants' motion for an order dismissing the claims contained in plaintiff's third cause of action entitled "infliction of emotional distress" pursuant to FED. R. CIV. P. 12(b)(6) as plaintiff failed to state a claim upon which relief could be granted,), as well as such other further and different relief as this Court deems just and proper.

3. A copy of the Complaint is annexed hereto as **Exhibit A**.

**Electronically Filed**

Dated: Tarrytown, New York  
August 25, 2008

Respectfully submitted,

**LAW OFFICES OF CUSHNER & GARVEY, LLP**

By:           S/          

Lawrence A. Garvey (LG9113)  
*Attorneys for Defendants Colleen IP,  
Intellectual Property Law, P.C., and  
Donald J. Ranft, as Aider and Abettor*  
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